

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MANUEL LOPEZ

Plaintiff,

MEMORANDUM AND ORDER

-against-

Civil Action No.
CV-04-4191(DGT)

COMMISSIONER SOCIAL SECURITY

Defendant.

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Trager, J:

The ALJ's findings concerning claimant's physical and mental condition are supported by substantial evidence. The ALJ was justified in rejecting the exaggerated findings of the chiropractor, Gertrude Smith, and the vague conclusory statements by the psychiatrist, Dr. Vincent Basbus. However, even accepting these findings, still it is unclear whether there are any unskilled sedentary jobs in the national economy for claimant with the physical and mental conditions the ALJ found him to have. Therefore, pursuant to sentence four (4) of 42 U.S.C. § 405(g), this matter is remanded to the Commissioner for the sole purpose of considering testimony from a vocational expert who will determine what jobs claimant is capable of doing in the national economy. The vocational expert will take into account the ALJ's findings concerning claimant's physical condition and

capabilities and also specifically consider claimant's nonexertional limitations in accordance with the Second Circuit's holding in Bapp v. Bowen, 802 F.2d 601 (2d Cir. 1986).

The Clerk of the Court is directed to close this case.

Dated: Brooklyn, New York
March 23, 2006

SO ORDERED:

_____/s/
David G. Trager
United States District Judge